UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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BARBARA ANNE THOMAS,

Plaintiffs,

-against-

THE TOWN OF HEMPSTEAD, and KATE MURRAY, ANTHONY SANTINO, GERRY MARINO, MICHAEL PASTORE, GARRETT GORTON, CRISSY ROSSELLI DEANGELO, RAYCHEL RYCKMAN-MARTINO, and MELISSA FOGARTY

Defendants.

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Docket No.__________________

COMPLAINT

Plaintiff BARBARA ANNE THOMAS, by and through her undersigned attorneys, complaining of the Defendants herein, allege upon knowledge as to themselves and their own actions, and upon information and belief as to all other matters, as follows:

PRELIMINARY STATEMENT

1. Barbara Anne Thomas, a dedicated and decorated public servant of the New York City Police Department dedicated her life to serving and protecting. She always went above and beyond to help society's most vulnerable populations including answering the call when her nation needed her the most on September 11, 2001. In addition to helping people in need she developed a passion for protecting all sentient beings. As such, she spent her free time volunteering at the Town of Hempstead Animal Shelter starting in June 2013 as an advocate, dog walker, socializer, adoption event participant, and creator of a positive online presence for the animals using photography and descriptive writing. Her mission was to enhance the quality of life for animals while they resided at the

shelter, and to encourage the public to provide loving homes for them through foster care and/or adoption.

2. However, rather than appreciating her hard work, the Town and its representatives chose to harass and mock Ms. Thomas, while making every attempt to tarnish her career and reputation in the animal sheltering, welfare, and protection community. When she tried to raise issues about the animal shelter to other volunteers, animal advocates, shelter employees, and town officials she was routinely ignored and retaliated against for daring to speak out for defenseless animals by volunteers, staff, and even supervisors. Her harassers even went as far as to insinuate Ms. Thomas was a terrorist for her beliefs. The situation came to a head on February 18, 2017, when Ms. Thomas was ejected from the facility by the Town. Plaintiff was not only banned from doing her volunteer work but was prohibited from even being able to enter the public facility. Furthermore, the Town tried to tarnish her career as a distinguished member of the New York City Police Department.

3. Plaintiff now brings suit for violations of her First Amendment right to freedom of speech and access to the government, and her right to equal protection under the laws, pursuant to 42 U.S.C. § 1983, and under the common law of the State of New York for defamation. She seeks declaratory, injunctive and compensatory relief, as well as punitive damages and attorneys fees.

JURISDICTION AND VENUE

4. This Court has original jurisdiction over Plaintiff's federal claims pursuant to 28 U.S.C. §§ 1331 & 1343, and supplemental jurisdiction over Plaintiff's state claims pursuant to 28 U.S.C. § 1367.

5. Venue is proper in this case pursuant to 28 U.S.C. § 1391.

PARTIES

6. Plaintiff BARBARA THOMAS is an adult individual who resides in Massapequa, New York. For at least the last four (4) years, Thomas has served the Town of Hempstead in a variety of capacities. She has served as an animal advocate, volunteer dog walker, socializer, adoption event participant, and creator of a positive online presence for the animals, thus promoting adoptions at the Town of Hempstead Animal Shelter located in Wantagh, New York.

7. Defendant TOWN OF HEMPSTEAD ("the Town") is a municipal corporation organized and existing under the laws of the State of New York with its principal place of business located at One Washington Street, Hempstead, New York. Pursuant to the New York State Agricultural & Markets Law, the Town operates, staffs, and supervises the employees of the Town of Hempstead Animal Shelter ("the Shelter") located at 3320 Beltagh Avenue, Wantagh, New York.

8. Defendant ANTHONY SANTINO (hereinafter "Santino") is, and has been, the supervisor of the Town since January 2016. As such he is currently the highest elected official in the Town.

9. Defendant KATE MURRAY (hereinafter "Murray") was the supervisor of the Town at all relevant times up until January of 2016.

10. Defendant MICHAEL PASTORE (hereinafter "Pastore"), at all relevant times, was and is an employee of the Town assigned to work in the Shelter. Upon information and belief, Pastore is a resident and domiciliary of the Town of Hempstead and State of New York.

11. Defendant KEVIN DENNING (hereinafter "Denning"), at all relevant times, was and is an employee of the Town assigned to work as the Shelter liaison. Upon information and belief, Denning is a resident and domiciliary of the Town of Hempstead and State of New York.

12. Defendant GERRY MARINO (hereinafter "Marino"), at all relevant times, was and is an employee of the Town assigned to work as the Commissioner of General Services. Upon information and belief, Marino is a resident and domiciliary of the Town of Hempstead and State of New York.

13. Defendant GARRETT GORTON, (hereinafter "Gorton") at all relevant times, was an employee of the Town. Upon information and belief, Gorton is a resident and domiciliary of the Town of Hempstead and State of New York.

14. Defendant MELISSA FOGARTY, (hereinafter "Fogarty") at all relevant times, was an employee of the Town. Upon information and belief, Gorton is a resident and domiciliary of the Town of Hempstead and State of New York.

15. Defendant CHRISSY ROSSELLI DEANGELO (hereinafter "DeAngelo") at all relevant times, was a volunteer for the Town. Upon information and belief, DeAngelo is a resident and domiciliary of the Town of Hempstead and State of New York.

16. Defendant RAYCHEL RYCKMAN MARTINO (hereinafter "Martino") at all relevant times, was a volunteer for the Town. Upon information and belief, Martino is a resident and domiciliary of the Town of Hempstead and State of New York.

ALLEGATIONS

17. Plaintiff has for her career been a tireless public servant as a decorated member of the New York Police Department. She has also dedicated her life to protecting and assisting

animals in need. Plaintiff's job recognized her dedication to animals by appointing her to initiate their Animal Cruelty Investigation Squad and presenting her with a Public Service Humane Award directly from the Police Commissioner. Her work with animals unfortunate enough to be victims of cruelty and/or to end up in a municipal shelter has received recognition both at work and in her community.

18. In June of 2013, Plaintiff began volunteering at the Town of Hempstead animal shelter. Her initial position was that of a dog walker and animal socializer. She reported to Dolores Stormo, Volunteer Coordinator, and was trained by Laura Garber, CPDT-KA, CCPDT, Behaviorist.

19. In September of 2013, Plaintiff created the Facebook page "Orphan Annie's Pit Crew (OAPC)" to help network and ultimately find new homes for the animals at the shelter.

20. Plaintiff loved her time at the shelter and believed ardently in their adoption focused mantra and focus on maintaining a cohesive team to achieve common goals. However, that soon began to change when Michael Pastore (hereinafter "Pastore") took over as the head of the shelter.

21. Upon information and belief, Pastore did not believe in the humane concept of furthering the true adoption center that his predecessor had initiated. Animals were referred to as inventory and the focus became keeping inventory low. Pastore allowed and encouraged a major division to occur between shelter staff and volunteers. Specifically, Pastore allowed and encouraged Defendant DeAngelo to post a Town sponsored Facebook Page called "TOHAS Volunteers and Staff United." DeAngelo, a volunteer, was given access by Pastore to all shelter information, including animals who were to be euthanized. Upon information and belief, Pastore provided her with more information, input, and influence

than even the Assistant Director at the time, Stacie DaBolt. Unlike Plaintiff's Facebook Page, this page was used by the Defendants to identify and target employees and volunteers who either wrote about inadequate conditions at the shelter or had anything "negative" to say about Pastore and/or shelter operations.

22. Making matters worse, the animals at the shelter began to suffer. In the beginning of July 2015, a Pit Mix named Donny and a Rottweiler named Dustin entered the shelter. Both dogs were slotted for euthanasia. Around the same time, DeAngelo instructed the volunteers what pictures they were allowed to share, and what they were and were not allowed to say and/or post online about the shelter. Upon information and belief, this behavior was condoned by Pastore.

23. Plaintiff, who was very concerned for these dogs, spoke out for the them and advocated for the dogs not to be killed. In clear retaliation, Plaintiff was harassed by the staff and volunteers at the shelter and referred to as the "rat". She was also accused of having "bad intentions" for speaking out and was ostracized by DeAngelo for discussing what DeAngelo believed to be confidential information. Upon information and belief, all DeAngelo's actions were known by and condoned by Pastore.

24. Because of the aforementioned incidents, Plaintiff filed a formal complaint against DeAngelo with Pastore. Pastore in turn took no action. DeAngelo, emboldened by Pastore's inaction, recruited volunteers who in turn harassed anyone who spoke negatively about the shelter. Plaintiff, in particular became a favorite target of Deangelo and her group. Plaintiff was excluded from all Social Media groups while volunteers who Pastore and Deangelo favored were given access to information about the animals.

25. On August 23, 2015, another incident occurred where Plaintiff discovered a memorial for deceased dogs at the shelter was desecrated. There were two memorials, and one was specifically for Kodi, Plaintiff's project dog. When Plaintiff tried to investigate who was responsible for desecrating the memorial, she was mocked by other volunteers. Furthermore, the other volunteers and employees would attempt to intimidate Plaintiff by video recording her while at the shelter, and snapping pictures of her for no apparent reason. Plaintiff approached Deangelo about the incident but was again mocked. Frustrated by a lack of support among the staff, Plaintiff took it upon herself to fix the memorial only to find it again destroyed a few days later.

26. Plaintiff again filed another formal complaint, in which she listed those she suspected of desecrating the memorial, about these incidents but again Pastore took no action.

27. Plaintiff's situation at the shelter continued to deteriorate, she found herself being inexplicably barred from working with dogs she had bonded with for no apparent reason and every time she spoke out, Pastore and Deangelo's favored staff and volunteers would respond with increasing hostility. Pastore would do nothing to address the situation.

28. On January 21, 2016 Plaintiff again emailed Pastore to get an update on her complaints. Pastore, as per the norm, ignored Plaintiff's email. Around the same time the Defendants' harassment of Plaintiff intensified. Fogarty began an investigation into all volunteers at Pastore's request. However, the investigation was soon shown to be a witch hunt as Fogarty used the investigation to further harass and intimidate Plaintiff due to her speaking out about the mistreatment of the dogs at the shelter. Also as part of the so-called investigation, Plaintiff found her duties at the shelter severely reduced and was not allowed to work with dogs she was previously permitted to work with. When asked for

reasoning, she was told that Pastore wanted Plaintiff to get "evaluated" conducting her dog walking activities. Furthermore, Fogarty, along with volunteers Sharyn Glowalz and Julie Ferrigno set up yet another way for select staff and volunteers to be part of a "Buddy-Up" system where they could "Buddy-Up" with incoming dogs and receive vital information about them. The staff and volunteers who were allowed to participate were chosen by Defendants, who utilized Social Media to determine which staff members and volunteers were loyal to Pastore. Plaintiff was again denied participation and access to any and all information based on these searches.

29. Plaintiff's complaints continued to go ignored by Pastore, so Plaintiff began speaking out about the shelter at Town board meetings. On June 7, 2016, Plaintiff addressed the Town board about what was transpiring at the animal shelter. She also sent a follow up email to Santino and Denning on June 8, 2016.

30. On July 13, 2016 Plaintiff again spoke out against the conditions at the shelter and pleaded with the Town to release the list of animals scheduled for euthanization. In response to her pleas for help, Plaintiff was instead verbally assaulted by Ryckman-Martino, who mocked Plaintiff and stated Plaintiff threatened physical violence and said Plaintiff reminds her of "an anti abortionist that goes around killing doctors." On August 10, 2016, Plaintiff, alarmed and upset by the actions of Martino, reached out to Santino and a town attorney who has repeatedly identified himself as Santino's "personal attorney" William Muller ("Muller") asking for urgent assistance. This request, and its follow up on August 12, 2016, were ignored by both Santino and Muller. Similar pleas for help to Pastore and Denning were also ignored.

31. Emboldened by the willful ignorance of the town's supervisors, Martino, Deangelo, and other volunteers escalated their attempts to intimidate Plaintiff. Plaintiff was mocked for speaking out at town hall, and photographed for no apparent reason by Martino.

32. On or about September of 2016, Plaintiff was interviewed by Michael Alocca, a town investigator who had upon information and belief received sixty similar complaints. Alocca was later inexplicably replaced by Gorton. Gorton, claiming to be investigating her claims, took information from Plaintiff. She proceeded to send more information to Gorton who never responded to Plaintiff after receiving information from her.

33. Plaintiff continued her crusade to help the animals at the shelter but could sense that few in the town were sympathetic. Her complaints continued to be ignored, and now she was being openly mocked when she spoke on town hall meetings by the volunteers, Pastore, and others.

34. On February 14, 2017, Plaintiff emailed Santino, Muller, and others begging for her complaints to be endorsed and complaining that the town violated their own policies by endorsing Martino's, another volunteer's, Facebook page. Martino in turn begins to make more unsupported claims against Plaintiff including falsely stating that Plaintiff was threatening Martino's life. As per the pattern, the town again ignored Plaintiff.

35. The situation between the parties escalated on February 18, 2017 where Martino confronted Dolores Stormo, Plaintiff's friend and former volunteer coordinator, at a public event. Upon information and belief, Martino did this to humiliate Stormo, who is engaged in her own lawsuit against the Town. Martino proceeded to attempt to provoke then record Plaintiff, Stormo and others. When confronted by Plaintiff, Martino claimed to be "cornered" and when bystanders challenged her again referred to Plaintiff as a

anti-abortionist doctor-killer". The Defendants then attempted to remove Plaintiff from the shelter. The Nassau County Police arrived soon thereafter but left the scene without making any reports or arrests, stating there was no criminality. Following this incident, Plaintiff attempted to FOIL the reports from this incident but was denied on March 29, 2017. Upon information and belief, Martino at the request and encouragement of the other defendants had instigated the incident with Plaintiff.

36. Plaintiff returned to work after the incident, only to find out that Gorton filed an IAB report against Plaintiff on behalf of Martino in an attempt to cost Plaintiff her career. This occurred exactly ten days after the incident referenced in paragraph 35.

37. To this date, while no formal order banning Plaintiff from the shelter exists, the Defendants have made it explicit that Plaintiff is not wanted at the shelter effectively banning Plaintiff from the shelter.

Damage Caused by the Town's Actions

38. Due to the banning of Thomas, the defamatory comments made about her, as well as attempts to affect her job, the Plaintiff's reputation has been questioned by others, she has been unable to continue to perform her volunteer work, and she has been the subject of numerous Facebook posts where Defendants' defamatory comments have been reproduced to potentially thousands of individuals.

39. As a result, Plaintiff has suffered great emotional pain and humiliation, depression, anxiety, a loss of sleep, a loss of self-worth, disruption of family life, damage to her reputation, and other indices of emotional trauma.

AS AND FOR A FIRST CAUSE OF ACTION

40. The above stated actions of the Defendants in harassing and banning Plaintiff as a taxpaying citizen from being able to enter a public facility is unconstitutional on its face in that it is a violation of the Plaintiff's First Amendment rights to access the government.

41. The Plaintiff has no adequate remedy at law.

AS AND FOR A SECOND CAUSE OF ACTION

42. The above stated actions of the Defendants in harassing and banning the Plaintiff from continuing to perform her volunteer work after they reported instances of animal abuse and neglect at the Shelter, questioning the allocation of funds in the Shelter's budget, and lobbying for the implementation of certain operational programs is unconstitutional as applied in that it is a violation of the Plaintiff's First Amendment rights to be free from retaliation for having spoken out on issues relating to Shelter operations.

43. The Plaintiff has been damaged in the ways set forth above.

AS AND FOR A THIRD CAUSE OF ACTION

44. The above stated actions of the Defendants in harassing and banning the Plaintiff from continuing to perform her rescue work is unconstitutional as applied in that it is a violation of the Plaintiff's rights to equal protection under the law because other similarly situated rescuers have since been allowed to enter the Shelter after the banishment of the Plaintiff.

45. The Plaintiff has been damaged in the ways set forth above.

46. The Town has, while acting under color of state law, deprived the Plaintiff of her constitutional rights, as secured by the First and Fourteenth Amendments to the United States Constitution, and all related provisions of the New York State Constitution. The

Town is liable for the actions of the individually named Defendants because the Town officials intentionally committed, condoned or were deliberately indifferent to the aforementioned violations of the Plaintiff's constitutional rights. Such deliberate indifference may be inferred in the following ways:

a. Defendants' custom or practice of discriminating and/or retaliating against individuals based on their constitutionally-protected forms of speech, expression and association. The discriminatory practices were so persistent and widespread that they constitute the constructive acquiescence of policymakers.

b. Supervisors failed to properly investigate and address allegations of discrimination, retaliation and/or harassment.

c. Inadequate training/supervision was so likely to result in the discrimination, retaliation, and/or harassment that policymakers can reasonably be said to have been deliberately indifferent to the need to provide better training and supervision.

d. Policymakers engaged in and/or tacitly condoned the discrimination/retaliation.

AS AND FOR A FOURTH CAUSE OF ACTION

47. The above stated defamatory comments made by the Defendants constitute libel, libel per se, slander, and slander per se under the common law of the State of New York.

48. The Plaintiff has been damaged in the ways set forth above.

WHEREFORE, the Plaintiff demands the Court enter judgment in her favor and against the Defendants as follows:

A. Declaring the Plaintiff as banned from a public facility unconstitutional on its face;

B. Issuing a permanent injunction mandating that the Defendants allow the Plaintiff to re-enter the Shelter and prohibiting the Defendants from any further actions inhibiting the Plaintiff's exercise of her constitutional rights;

C. Directing the Defendants to pay to the Plaintiff all compensatory, punitive, and liquidated damages to which she may be entitled;

D. Directing the Defendants to pay the Plaintiff's attorneys fees should the Plaintiff be the prevailing party to this action;

E. Directing the Defendants to pay the costs and disbursements associated with this action; and,

F. Granting such other and further relief that to the Court seems just and proper.

Further, the Plaintiff demands a trial by jury.

Dated: Garden City, New York
May 9, 2017

Yours, etc.

Jonathan A. Tand
JONATHAN A. TAND & ASSOCIATES
990 Franklin Avenue Suite 225
Garden City, New York 11530
(516) 393-9151